

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 67 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

DALSUKHBHAI JESABHAI SOLANKI

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT PATEL for Petitioners
MR SN SHELAT, Addl.AG with MR AD OZA,
GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 2, 3, 4, 5, 6

CORAM : MR.JUSTICE M.S.SHAH

Date of Judgment: 20/10/2000

CAV JUDGMENT

In this petition under Article 226 of the Constitution, the Sarpanch of Dhinoj Gram Panchayat, Sarpanch of Railwaypura Gram Panchayat and a resident of village Dhinoj have prayed that villages Dhinoj and Railwaypura which are in Chanasma taluka ought to have been included in Mehsana taluka while undertaking the recent exercise of reconstitution of talukas in December,

1999.

2. In a separate judgment delivered today in Special Civil Application No. 10459 of 1999, this Court has already examined the contentions regarding the interpretation of the provisions of Section 7 of the Bombay Land Revenue Code and Section 9 of the Gujarat Panchayats Act and the contentions about the application of the principle of audi alteram partem in such matters. For the reasons already recorded therein, this Court reiterates the view taken in the said decision that the village panchayat, members of the village panchayat or the residents of the village do not have any right to be heard before the State Government exercise its powers under provisions of Section 7 of the Bombay Land Revenue Code for including a particular village in a particular taluka or to shift/exclude it from one taluka and to include it in another taluka.

3. It is contended on behalf of the petitioners that earlier villages Virta, Gorad, Dhinoj and Railwaypura were all in Chanasma taluka. They continued to remain in Chanasma taluka even after October, 1997 and December, 1997. The people of all the four villages had been making representations to the State Government for including these villages in Mehsana taluka. The representations of people of villages Virta and Gorad came to be accepted but the representations made by village panchayats of Dhinoj and Railwaypura were not accepted. It is submitted that on facts the case of Dhinoj and Railwaypura villages is similar to the case of Virta and Gorad villages.

The petitioners have contended that the distance of the four villages from Chanasma and Mehsana is as under :-

Name of village	From Chanasma	From
	(in Kms.)	Mehsana
	(in Kms.)	

Virta	24	21
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Gorad	22	19
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Dhinoj	18	15
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Railwaypura	17	14
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4. In view of the settled legal position that the decision to include a particular village in one taluka or another is to be taken by the Government and that this Court does not sit in appeal over such decision, no case is made out for giving any direction to the State Government to include villages Dhinoj and Railwaypura in Mehsana taluka. It is, however, directed that in case the petitioners make representations to the State Government for shifting villages Dhinoj and Railwaypura from Chanasma taluka and to include them in Mehsana taluka, the State Government shall consider such representations on their own merits without being deterred by the fact that this Court has dismissed the petition only on the ground that this Court does not sit in appeal over the Government decisions in such matters and that ordinarily this Court does not interfere with the Government decisions in such matters.

5. The petition is accordingly disposed of with liberty to the petitioners to make representation/s to the State Government for including villages Dhinoj and Railwaypura in Mehsana taluka. When such representation/s are made, the State Government shall consider such representation/s on their own merits.

6. Subject to above liberty, Rule is discharged. There shall be no order as to costs. Ad-interim order dated 7.1.2000 for maintaining status quo is vacated.

(M.S. Shah, J.)

At this stage, Mr Jayant Patel, learned counsel for the petitioners prays that the ad-interim relief granted earlier may be continued for sometime in order to enable the petitioner to have further recourse in accordance with law.

The ad-interim relief granted earlier shall continue till 15.11.2000.

October 20, 2000 (M.S. Shah, J.)

sundar/-